

MINUTES OF THE REGULAR CITY COUNCIL MEETING
TUESDAY- -NOVEMBER 3, 2009- -7:30 P.M.

Mayor Johnson convened the Regular Meeting at 7:42 P.M. Honorary Councilmembers Annie Lynch and Bria M. Wade led the Pledge of Allegiance.

ROLL CALL - Present: Councilmembers deHaan, Gilmore, Matarrese, Tam, and Mayor Johnson - 5.

Absent: None.

AGENDA CHANGES

(09-429) Mayor Johnson announced that the Presentation [paragraph no. 09-430] and Fire Department Response Standards [paragraph no. 09-442] would not be addressed.

PROCLAMATIONS, SPECIAL ORDERS OF THE DAY AND ANNOUNCEMENTS

(09-430) Presentation by Alameda County Congestion Management Agency on I-880 Operational and Safety Improvements at 29th Avenue and 23rd Avenue Overcrossings. Not heard.

CONSENT CALENDAR

Mayor Johnson announced that the Recommendation to Accept Transmittal [paragraph no. 09-433], Recommendation to Authorize the Interim City Manager to Negotiate [paragraph no. 09-435], and Resolution Authorizing the Interim City Manager to Modify [paragraph no. 09-438] were removed from the Consent Calendar for discussion.

Councilmember Gilmore moved approval of the remainder of the Consent Calendar.

Councilmember Tam seconded the motion, which carried by unanimous voice vote - 5. [Items so enacted or adopted are indicated by an asterisk preceding the paragraph number.]

(*09-431) Minutes of the Special Joint City Council and Public Utilities Board Meeting and the Regular City Council Meeting held on October 20, 2009, and the Special Joint City Council and Alameda Reuse and Redevelopment Authority Meeting held on October 27, 2009. Approved.

(*09-432) Ratified bills in the amount of \$2,714.803.72

(09-433) Recommendation to Accept Transmittal of Certificate of Sufficiency of an Initiative Petition Entitled "Alameda Point Development."

Speakers: Gretchen Lipow, played a video and submitted a handout on behalf of Eugenie Thomson; David Howard, Alameda; Irene Dieter; Reyla Greber, Protect the Point; Julia Liou, Oakland Chinatown Advisory Committee.

Mayor Johnson inquired whether Council has any discretion on placing the matter on the ballot, to which the City Attorney responded in the negative.

Mayor Johnson inquired about misleading comments noted by speakers.

The City Attorney responded that she has reviewed the initiative and does not conclude that there is sufficient evidence to engage in litigation over the matter; stated there seems to be some confusion regarding the difference between a Council initiative and a voter initiative, which does not require prior California Environment Quality Act (CEQA) compliance.

Mayor Johnson inquired whether there is any basis for not placing the matter on a ballot.

The City Attorney responded in the negative; stated Council or the City Clerk would have been required to seek declaratory relief from the Court to be relieved of ministerial duties to certify the signatures and set the election.

Mayor Johnson inquired whether an Environmental Impact Report (EIR) would be completed prior to placing the matter on the ballot.

The City Attorney responded in the negative; stated the developer is not required by law to begin the CEQA process [before placing the matter on the ballot]; the developer has consented to pay for the study which will not be completed prior to the election; a Disposition and Development Agreement would not come to Council without a CEQA analysis; the City has gone above and beyond to attempt to initiate the CEQA process.

Vice Mayor deHaan inquired whether the City Attorney has reviewed Eugenie Thomas' letter, to which the City Attorney responded in the negative.

Vice Mayor deHaan inquired whether the City Attorney received Ms. Thomas' letter prior to tonight, to which the City Attorney responded in the negative.

Councilmember Gilmore moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion.

Under discussion, Councilmember Tam inquired whether the motion is just to accept the transmittal of the certificate of sufficiency of the initiative petition, to which the City Attorney responded in the affirmative.

On the call for the question, the motion carried by unanimous voice vote - 5.

(*09-434) Recommendation to Accept a Grant from the Assistance to the Firefighters Grant Program for \$65,127 to Develop and Administer a Multi-Hazard Injury Prevention Program for Residents 65 Years of Age and Older, Appropriate \$13,026 in Fiscal Year 2009-2010 Community Development Block Grant Funds to Meet the Grant Application 20% Match Requirement, and Authorize Staff to Make the Appropriate Budget Adjustments. Accepted.

(09-435) Recommendation to Authorize the Interim City Manager to Negotiate and Execute All Required Agreements Between the Water Emergency Transportation Authority (WETA) and the Ferry Operators to Place the MV Pisces, Scorpio, and Gemini in Operation on the Alameda Ferry Service. [Contracts: WETA, Harbor Bay Maritime, and Blue & Gold Fleet]

Councilmember Matarrese stated that he would like some feedback from WETA regarding the use of boats to alleviate the Bay Bridge emergency closure.

The Ferry Services Manager stated the Alameda Harbor Bay Ferry Service and Alameda/Oakland Ferry Service responded very well to the emergency; both the Pisces and Bay Breeze were used; the Bay Breeze was the main boat; noted the Alameda/Oakland Ferry transported the Rockets to their game.

Vice Mayor deHaan inquired whether staff assessed the parking situation during the emergency closure, to which the Ferry Services Manager responded in the negative.

Vice Mayor deHaan stated that he assessed the parking situation; the impact was quite extensive and indicates future concern if increased ridership continues.

The Ferry Services Manager stated the Main Street terminal parking lots were full.

Vice Mayor deHaan stated that he is referring to the Alameda Harbor Bay Ferry terminal; the neighborhood was impacted.

Mayor Johnson stated WETA is looking into using a parking lot that is partially leased by His Lordships Restaurant in Berkeley; parking lots do not need to double if ridership doubles; unique, creative solutions are being developed instead of doubling the amount of pavement.

Vice Mayor deHaan stated the new Alameda Harbor Bay Ferry Service vessel has less capacity.

The Ferry Services Manager stated the Pisces carries 149 passengers and the Bay Breeze carries 250 passengers.

Vice Mayor deHaan inquired whether WETA is looking at larger ferries.

The Ferry Services Manager responded WETA will get the Scorpio, which has been offered to the City for the Alameda/Oakland Ferry Service; the plan is to sub-charter the Scorpio to the Blue & Gold Fleet for Alameda/Oakland Ferry Service operations and take the Gemini from the Blue & Gold Fleet for use by Harbor Bay Maritime for Alameda Harbor Bay Ferry operations.

Councilmember Matarrese moved approval of the staff recommendation with direction to ensure that communication continues with WETA regarding how to address the next Bay Bridge closure.

Councilmember Matarrese stated real time information is available; the Bay Bridge could close again; information will help if a larger emergency occurs.

Vice Mayor deHaan seconded the motion.

Under discussion, Mayor Johnson stated the City still operates its ferries and should be gathering data.

Vice Mayor deHaan inquired when WETA would start operating the ferries.

The Deputy City Manager responded hopefully January 1, 2010, but probably June 30, 2010.

On the call for the question, the motion carried by unanimous voice vote - 5.

(*09-436) Resolution No. 14396, "Authorizing the Interim City Manager to Enter into an Agreement with the Bay Area Air Quality Management District for Carl Moyer Program Grants to Replace Two Ferry Vessel Diesel Engines, Conduct an Open Market Purchase of Two Ferry Vessel Diesel Engines and Two Diesel Generators Pursuant to Section 3-15 of the Alameda City Charter, and Execute All Necessary Documents." Adopted. [Contract: Valley Power Systems]

(*09-437) Resolution No. 14397, "Adopting the City of Oakland's Deficiency Plan for State Route 185, Acknowledge that the Implementation of the Deficiency Plan will be Monitored Biennially by the Alameda County Congestion Management Agency as Required by State Law, and that the Schedule and Progress for Implementation of the Deficiency Plan will be Considered as Part of the Annual Conformity Requirements for the Congestion Management Program." Adopted.

(09-438) Resolution No. 14398, "Authorizing the Interim City Manager to Modify the Measure B Para transit Program for Fiscal Year 2009-2010 and Make the Appropriate Revenue and Expenditure Budget Adjustments Based on the Proposed Changes." Adopted.

Speaker: Former Councilmember Barbara Kerr.

Mayor Johnson stated staff is working very hard to make the Para transit Program known; Former Councilmember Kerr's ideas are good.

Councilmember Gilmore inquired whether the fiscal year 2009-2010 Premium Taxi Service budget would not be changed.

The Public Works Director responded in the affirmative; stated Council would review any possible changes next year; having only a few months of shuttle service data is not sufficient; a year of data is needed to measure the success of the shuttle service.

Councilmember Gilmore inquired whether inquired why Meals on Wheels is not anticipated to be an ongoing component of the City's Para transit Program.

The Public Works Director responded the Alameda County Transportation Improvement Authority (ACTIA) has concerns regarding whether some of the programs are reaching the Para transit community; stated some programs will need to be revised in order to support the shuttle service on an extended basis; Meals on Wheels would be discontinued if the shuttle service continues.

Councilmember Gilmore inquired whether the City has funded Meals on Wheels for two years, to which the Public Works Director responded

in the affirmative.

Councilmember Matarrese stated a baseline should be established and measured not less than bi-annually to demonstrate progress; having data is important if changes are needed.

Vice Mayor deHaan inquired whether the Social Services Human Relations Board (SSHRB) and Recreation and Park Commission have been contacted on the matter.

The Public Works Director responded the SSHRB and Recreation and Park Commission were not contacted since the previously funded programs have not changed; stated staff is using existing reserve funds for the shuttle service which is anticipated to start in March, 2010; prior programs have been reviewed by the SSHRB and Mastick Senior Center staff.

Vice Mayor deHaan inquired whether the SSHRB and Recreation and Park Commission could be involved in the six-month review.

The Public Works Director responded the SSHRB and Recreation and Park Commission could be involved with measuring the affect of the shuttle service analysis.

Mayor Johnson stated the SSHRB and Recreation and Park Commission should be briefed on programs to help spread the word.

The Public Works Director stated ACTIA and the Para transit Advisory Planning Committee were very complimentary regarding some of the programs provided and stated that the City has stellar advertising.

Councilmember Matarrese moved adoption of the resolution with direction that staff determine the starting baseline, measure not less than every six months and involve the SSHRB and Recreation and Park Commission in the process.

Vice Mayor deHaan seconded the motion, which carried by unanimous voice vote - 5.

(*09-439) Introduction of Ordinance Amending Ordinance No. 2130, New Series, Updating the Civil Service System of the City of Alameda. Introduced.

(*09-440) Ordinance No. 3009, "Amending the Alameda Municipal Code by Amending Subsection 30-5.14 (Barriers and Fences) of Chapter XXX (Development Regulations) by Adding Subsection 30-5.14 (e) to Require Administrative Use Permits in Non-Residential Districts for

Temporary or Permanent Barriers or Fences Within a Required Setback or Along a Property Line that Faces a Public Street or a Public Access Easement." Finally passed.

(*09-441) Ordinance No. 3010, "Amending the Alameda Municipal Code by Amending Chapter XIII (Building and Housing) by Adding Article I, Section 13-13 (Alameda Green Building Code) to Adopt the 2008 Edition of the California Green Building Standards Code." Finally passed.

CITY MANAGER COMMUNICATIONS

(09-442) Fire Department Response Standards. Not heard.

(09-443) Scheduling Date - Joint City Council/School Board Meeting.

The Deputy City Manager gave a brief presentation.

The City Clerk stated two potential dates are January 13, 2010 and January 14, 2010; three Councilmembers have a clear schedule; that she is waiting to hear back from two Councilmembers; the meeting time would be 6:30 p.m. or 7:00 p.m.

Mayor Johnson stated the School District might have a problem with January 14; the meeting should be scheduled for January 13 as long as three School Board Members can attend.

Councilmember Tam stated that she would have to defer to the majority and reschedule a conflict.

REGULAR AGENDA ITEMS

(09-444) Public Hearing to Consider Adopting Amendment #1 to the Fiscal Year 2009-2010 Community Development Block Grant Action Plan, Authorizing the Interim City Manager to Negotiate and Execute Related Documents, Agreements and Modifications, and Authorizing Staff to Make the Appropriate Budget Adjustments.

The Economic Development Director gave a brief presentation.

Councilmember Gilmore inquired how staff came up with \$75,000 for the Littlejohn Park Community Center kitchen upgrade.

The Economic Development Director responded the Recreation and Park Department provided the estimate.

Councilmember Gilmore stated the figure seems high; \$75,000 could pay for a high-end residential kitchen.

The Economic Development Director stated the estimate includes electrical upgrades; any unspent money would go back into the program.

Vice Mayor deHaan inquired whether the kitchen update was a project was on the Measure WW list, to which the Economic Development Director responded that she does not believe so.

The Deputy City Manager stated the American Recovery and Reinvestment Act funds were to be used originally.

Councilmember Matarrese stated the Multi-Hazard Prevention Program is a good idea, particularly if plugged into the conduit at Mastick Senior Center; that he hopes to take advantage of programs run out of the Hospital District in order to have large outreach.

The Economic Development Director stated that she would pass Councilmember Matarrese's comments on to the Fire Department that runs the program; the Federal Emergency Management Administration will be providing a \$65,000 matching grant.

Mayor Johnson opened the public portion of the hearing.

There being no speakers, Mayor Johnson closed the public portion of the hearing.

Councilmember Tam moved approval of the staff recommendation.

Councilmember Matarrese seconded the motion, which carried by unanimous voice vote - 5.

(09-445) Resolution No. 14399, "Calling an Election in the City of Alameda on February 2, 2010 for the Purpose of Submitting to the Electors an Initiative Regarding Development at Alameda Point." Adopted.

The City Clerk gave a brief presentation.

Mayor Johnson inquired what date would fall within the 88 to 103 day window; further inquired what date would fall within the 180-day window.

The City Clerk responded the 180-day window would not apply because the City would have to consolidation with another election and there is nothing to consolidate with; stated 88 days falls on January 30, which is a Saturday; the 103 days falls on February 13, which is also a Saturday.

Vice Mayor Johnson inquired whether the City could consolidate with another election between January 30 and February 13.

The City Clerk responded the Registrar would be conducting an election for Piedmont on February 2, 2010.

Councilmember Gilmore inquired whether SunCal specifically requested a special election in the initiative, to which the City Attorney responded in the negative.

Councilmember Gilmore inquired whether the City Clerk is outlining a very strict construction of the Elections Code.

The City Attorney responded in the affirmative; stated the 180 days would be measured from the date Council acts to set the election, which is consistent with the legislative intent.

Councilmember Gilmore stated the interpretation is very strict; inquired whether any case law requires said time frame.

The City Attorney responded that she is not aware of any cases addressing whether a city could go outside the 180 days, only legislative history.

Councilmember Gilmore stated the initiative is both an ordinance and Charter amendment; staff has chosen to analyze the initiative as an ordinance, not a Charter amendment; the Charter amendment part has been in the forefront of everyone's mind from the beginning; that she is confused about the initiative being analyzed as an ordinance and not a Charter amendment.

The City Attorney stated staff is not analyzing the matter solely as an ordinance, although the ordinance code section was cited by the drafters of the initiative; the initiative is partly a Charter amendment and partly calling for an amendment to the General Plan; 15% of the qualified voters signed the petition; the Elections Code does not address an initiative that is both a Charter amendment and an ordinance; Councilmember Gilmore is correct in stating that staff is providing a more conservative reading when there is nothing specifically on point; the end result would have been the same if signatures were submitted earlier in the year; the matter would have come to Council in August to set the election for November 3, which would have fallen between the 88 and 103 day window.

Mayor Johnson inquired whether anything states that the 88 to 103 day window does not apply to an ordinance initiative.

The City Attorney responded there are four exceptions under Elections Code 1405; stated one exception allows consolidation with another election; the problem is that the City does not have an election with which to consolidate; another exception allows the election to be held with the General Election if it falls between a State wide primary and a General Election; money would be saved; the other two exceptions do not apply; such as, more than two special elections cannot be called within 180 days.

Councilmember Gilmore stated that she would prefer to have the initiative classified as a Charter amendment rather than an ordinance; putting the initiative on the ballot in February would cost \$200,000 or more; City money is tight; the cost would be approximately \$50,000 to \$75,000 if the initiative were placed on the June ballot; placing the initiative on the June ballot would be fiscally responsible.

Mayor Johnson inquired whether there is any way to ignore the fact that the initiative includes an ordinance and consider the initiative a Charter measure.

The City Attorney responded the initiative has much more to do with an ordinance than an amendment to Measure A; stated that she would not advise ignoring the fact that the initiative includes an ordinance.

Councilmember Tam stated the last sentence of Section 9214 addresses the requirement that a citizen's committee would need to request that the ordinance be submitted immediately to a vote of the people at a special election; that she does not think the request is in place; a letter was received from some citizen imitative signatories requesting to consider a June election in order to provide an opportunity for the City to engage in good faith negotiations; questioned why the matter has been placed on the Regular agenda instead of the Consent Calendar if a strict reading of the Elections Code precludes the flexibility of the Council; stated a 67% potential savings could easily fund three fire fighter laid off positions, pay for a lot of programs, and keep City Hall open on Fridays which the Interim City Manager is proposing to close; Council should do everything possible to be fiscally prudent.

Mayor Johnson stated the matter couldn't be placed on the Consent Calendar because Council needs to set a date for the election.

Councilmember Matarrese inquired how the initiative would be classified if Measure A were removed.

The City Attorney responded the initiative would be classified under Elections Code 9214.

Councilmember Matarrese inquired whether the reference to the ordinance would be unchanged, to which the City Attorney responded in the affirmative.

Councilmember Matarrese inquired whether one feature of the initiative is dependent on the other, to which the City Attorney responded in the negative.

Councilmember Matarrese inquired whether the features need to be evaluated when assigning the appropriate sections of the Elections Code.

The City Attorney responded in the affirmative; stated the initiative proponent was not required to cite Section 9217.

Councilmember Matarrese inquired whether the classification is independent of the request made by supporters of the initiative, to which the City Attorney responded that she believes that is accurate.

Councilmember Matarrese inquired whether said statement is correct.

The City Clerk responded that she has not seen the supporters' request.

Councilmember Matarrese inquired whether the Elections Code considers the text of the initiative; further inquired whether a feature [of the initiative] classifies the initiative as an ordinance.

The City Attorney responded the City Clerk pointed out that in the text of the initiative, the initiative proponent actually cited Elections Code 9217 and identified the initiative as an ordinance, not a Charter amendment.

Mayor Johnson inquired whether having the proponent identify the initiative as an ordinance, not a Charter amendment, would be based on the face of the initiative and not what the proponent claims.

The City Attorney responded the totality of the circumstances would be reviewed.

Mayor Johnson stated in reviewing the initiative independently staff would conclude that the initiative is predominately an

ordinance and other parts are a Charter amendment.

The City Attorney stated the initiative is hybrid and is not solely a Charter amendment.

Councilmember Matarrese stated it does not matter whether the Charter component is 1% or 50%; the initiative has an ordinance component; the interpretation is not conservative; inquired whether the Elections Code has drivers stating both need to be met.

The City Attorney responded in the affirmative; stated that she understands Councilmember Tam's and Councilmember Gilmore's valid concerns regarding setting the election on a date that would cost the City the least amount of money; the problem is that the Elections Code does not provide any guidance as to what to do with a hybrid situation; Section 9255 is intended for Charter cities to set an election for a Charter amendment; the closest thing under the Elections Code that would seem to apply is Section 9214 which cross references Section 1405, which requires the 88 to 103 day window with a few exceptions that do not seem to fit.

Vice Mayor deHaan inquired what would be the cost difference if the City does not consolidate with Piedmont in February.

The City Clerk responded there is no election to consolidate within the 180-day period; stated a savings would be possible if there were something to consolidate with in April.

Councilmember Tam stated according to the Registrar of Voters, the cost of having a special election where Alameda has the only item ranges from \$6.50 to \$8.50 per voter which would total up to the high end of \$350,000; the June election would include a primary, Board of Supervisors, and City of Oakland election and the cost would range from \$1.50 to \$2.50 per voter; potentially, there could be a savings of approximately \$300,000.

Councilmember Gilmore inquired what would be the consequences of ignoring the Elections Code and placing the SunCal initiative on the June ballot.

The City Attorney responded the Council could receive a writ of mandate for not complying with the Elections Code.

Councilmember Tam stated that Section 9214 stipulates that a request is needed for a special election; one camp does not want the initiative at all; proponents and supporters of the initiative would like the initiative to go past the Exclusive Negotiation Agreement (ENA) period; the Oakland City Attorney prefers November

because that is when the first administrative draft of the EIR would be available; there does not seem to be direct clarity that there is a violation of the Elections Code; the exposure and risk do not seem to be that high right now.

Councilmember Matarrese stated that he has no intention of willfully violating the Elections Code; the Oakland City Attorney works for people who might potentially sue the City; that he would like to hear what the speakers have to say; that he wants more clarification regarding the difference between classifying the initiative as an ordinance versus a request from the proponents having the initiative classified [as an ordinance].

Mayor Johnson stated the Oakland City Attorney is looking at the issue from a whole different prospective.

The City Attorney stated the Oakland City Attorney is presuming that the initiative is a Council sponsored, authored initiative, which is not the case.

In response to Council Matarrese's inquiry regarding whether an initiative proponent directly requesting an initiative to be set for a special election is a different question from this initiative reference to Elections Code 9217, the City Attorney responded Elections Code 9217 describes what can be done with an ordinance; the initiative proponents did not come out and request a special election, but called for an election in a section of the initiative and referred to Elections Code 9217.

Councilmember Tam stated that she is referring to Section 9214, which is the reference in the City Clerk's staff report.

The City Attorney stated the question has been asked and answered.

Councilmember Tam inquired whether Section 9217 is different from Section 9214, to which the City Attorney responded in the affirmative.

Vice Mayor deHaan inquired whether SunCal has offered to pay for the election, to which the Deputy City Manager responded that she does not know.

Speakers: Former Councilmember Barbara Kerr, Alameda; Dug Siden, Alamedans for Alameda Point Revitalization; Honora Murphy, Alameda; Randell Sharpe, Alameda; Diane Coler-Dark, Alameda; Anne Spanier, League of Women Voters; Laura Thomas, Renewed Hope; Ross Ojeda, Renewed Hope; Lois Pryor, Renewed Hope; William Smith, Renewed Hope; Lynette J. Lee, Renewed Hope; David Howard, Alameda; Dave

Needle, Protect the Point; Marc Kasky, Green Century Institute, (submitted handout); Ashley Jones, Protect the Point; Elizabeth Greene, Alameda Architectural Preservation Society; Irene Dieter; Rosemary McNally, Alameda, (submitted handout); Brian Schumacher, Alameda; Gretchen Lipow, Alameda, statement read by Shayn Loshafroff; Nancy Gordon, Alameda; Jim Ross, Protect the Point; Karen Bay, Alameda; Bob Sikora, Alameda; Rose Ferro, Alameda; Michael John Torrey, Alameda; Robb Ratto, Park Street Business Association; Former Councilmember "Lil" Arnerich, Alameda.

Councilmember Tam stated the initiative is very complex and a lot of issues need to be vetted on both sides; that she feels it is worth looking at the Elections Code and interpreting it in a way that provides the flexibility to save the taxpayers a significant amount of money in tough economic times.

Councilmember Tam moved approval of setting the election to be consolidated with the June 8, 2010 election.

Councilmember Gilmore seconded the motion.

Under discussion, Councilmember Gilmore stated the City Attorney stated that the Elections Code does not provide guidance for a hybrid initiative; the matter has been about Measure A since the beginning; the matter would be a moot point in terms of the General Plan amendment if there were no exemption to Measure A; that she agrees with a lot of the comments that people made tonight; the absentee ballot issue did not occur to her; the initiative is very complex and everyone needs to read the initiative and be well informed before casting a vote; that she cannot agree to spend money on an initiative when the cost would be so much less in June.

Mayor Johnson stated Council has received an opinion from the City Attorney; the matter is a legal issue and Council should be following the City Attorney's opinion.

Councilmember Matarrese inquired whether there is flexibility to put off making a decision tonight.

The City Clerk responded according to Elections Code 9214 and 9215 on the night that the certification of the petition is presented, Council needs to adopt the ordinance within ten days of being presented, immediately order an election, or order a report; however, Council has already ordered a report.

Councilmember Tam inquired whether Council could adopt the initiative.

The City Attorney responded in the negative because part of the initiative includes a Charter amendment.

Vice Mayor deHaan stated many people are concerned about whether the public understands what the initiative is all about; that he is concerned with citizen groups being able to get messages out in such short order; SunCal has been peppering the community for the last six months; the community now understands what is in the initiative; the initiative cannot be changed; that he bows to the legal determination; the developer has \$600,000 into the initiative already and will have over \$1 million before the matter is over.

Mayor Johnson stated it would cost a lot of money for community members to run a campaign through June.

On the call for the question, the MOTION FAILED by the following voice vote: Ayes: Councilmembers Tam and Gilmore - 2. Noes: Councilmembers deHaan, Matarrese, and Mayor Johnson - 3.

Councilmember Matarrese inquired whether any other opinions have been sought.

The City Attorney responded in the affirmative; stated Elections Code experts have been consulted.

Councilmember Matarrese inquired whether Elections Code experts concur [with the City Attorney], to which the City Attorney responded in the affirmative.

Councilmember Matarrese stated that he wishes he could support an alternative that saves the City money; the law, as interpreted by the City Clerk and City Attorney, needs to be followed.

Councilmember Matarrese moved adoption of resolution setting the election date of February 2, 2010.

Vice Mayor deHaan seconded the motion.

Under discussion, Vice Mayor deHaan stated the community seems to be on board and understand the initiative.

Councilmember Gilmore stated the decision is difficult; that she feels very strongly that a creative, legal way could have been found to avoid having to place the matter on the February ballot and save the City a lot of money; that she cannot vote to be fiscally irresponsible; that she will abstain from voting on the matter.

Councilmember Tam stated that she will oppose the motion; that she cannot impose an additional financial burden on the City when there are job cuts, closing of City Hall [on Fridays], and potentially taking an ambulance out of service; based on conversations with outside counsel, a way should have been found to give Council flexibility; that she is not supportive of the motion.

Mayor Johnson stated that she appreciates the concern for fiscal responsibility; the cost of the election is nothing compared to the issues presented in the initiative.

On the call for the question, the motion carried by the following voice vote: Ayes: Councilmembers deHaan, Matarrese, and Mayor Johnson - 3. Noes: Councilmember Tam. Abstentions: Councilmember Gilmore - 1.

The City Clerk stated that tomorrow she will go out with a notice regarding submitting arguments; Council can chose to designate authors for arguments; the mailing of the sample ballot will be from December 24 through January 12; absentee ballots will be mailed out January 4; the last day to apply to vote by mail is January 26.

Mayor Johnson inquired whether there could be one ballot argument on each side, to which the City Clerk responded in the affirmative.

Mayor Johnson inquired whether Councilmembers could select someone to write the argument on one side or another, to which the City Clerk responded in the affirmative.

Mayor Johnson inquired when the argument needs to be submitted.

The City Clerk responded the Registrar's suggested deadline for direct arguments is November 13; stated she will bump the deadline back a little bit.

Mayor Johnson inquired how many people can sign the argument, to which the City Clerk responded five.

Councilmember Matarrese inquired whether timelines could be posted on the website.

The City Clerk responded in the affirmative; stated Council can designate authors for the argument.

The City Attorney stated there is no requirement for a Councilmember to volunteer to draft an argument, but it can be done.

ORAL COMMUNICATIONS, NON-AGENDA

(09-446) Former Councilmember Barbara Kerr, Alameda, stated housing along the north side is a valuable asset to the City and needs to be preserved; the Planning Board approved extending truck use from the Encinal terminals for another four years; lower income neighborhoods are necessary for the working force; everyone at City Hall should do everything possible to protect neighborhoods; diesel fumes are poisoning the children playing at Littlejohn Park.

Mayor Johnson inquired when the issue came to the Planning Board, to which Former Councilmember Kerr responded recently.

In response to Vice Mayor deHaan's inquiry, the Economic Development Director stated the conditional use permit and lease for Encinal Terminals was terminating; stated time was extended to allow containers to be moved off site; another permit provided the opportunity for an interim use which included adding some storage; eighteen months is the total time for terminal activity.

Vice Mayor deHaan inquired whether there would no longer be container storage, to which the Economic Development Director responded in the affirmative.

Vice Mayor deHaan inquired when storage would case, to which the Economic Development Director responded that she does not know.

Vice Mayor deHaan requested an off agenda report on the matter.

(09-447) Doug Siden, East Bay Regional Park District, stated a unified plan has been set up at Coast Guard Island since the recent oil spill into the Bay; no one ever addressed the possibility of what to do in case the Bay Bridge is closed [during an oil spill]; the Park District closed Crown Beach; crews came in to rescue birds; the Police Department was notified and were involved in the briefings.

Mayor Johnson stated a briefing should be provided after everything is sorted out.

Councilmember Tam inquired whether the beach is still closed, to which Mr. Siden responded in the affirmative.

Councilmember Tam inquired when the beach would reopen, to which Mr. Siden responded the Health Department would make the declaration.

COUNCIL REFERRALS

None.

COUNCIL COMMUNICATIONS

(09-448) Consideration of Mayor's nomination for appointment to the Library Board.

Mayor Johnson nominated Kristy L. Perkins for Appointment to the Library Board.

(09-449) Councilmember Gilmore stated that on October 22 she attended the Association of Bay Area Government (ABAG) fall general assembly; Ron Simms, Deputy Secretary of Housing and Urban Development (HUD), stated HUD will be operating differently under the new administration; HUD will be working with the Department of Transportation, the Environmental Protection Agency (EPA) and the Department of Education to coordinate funding; regional planning will be needed in order to receive HUD funding; land use and transportation decisions will need to be integrated; regionalization is the only way to compete in the twenty first century; HUD decision making is now going to be done at the local level; HUD is trying to position itself as a partner, not a regulator.

(09-450) Councilmember Matarrese stated AB166 addresses fines for illegal, abandoned boats and also includes a surrender fund to keep decrepit boats from becoming hazards to navigation; Alameda has several thousand slips; he would like to know whether AB166 applies to street abandonment as well as marina abandonment; marinas are left with the disposal of a boat that will not sell at auction; the most important component of AB166 is that the Governor is supplying a surrender fund; a strapped boat owner can surrender a boat to the fund, and the fund would deal with the disposal of the unsellable asset.

(09-451) Vice Mayor deHaan stated Council requested a recommendation from the Police Department regarding abandoned vehicles.

The Police Chief stated the Police Department is working with the City Attorney's office to finalize an action plan; a report should be ready in the next few weeks.

Mayor Johnson stated the plan needs to include boats.

The City Attorney stated boats and recreation vehicles will be part

of the amended ordinance.

Councilmember Matarrese stated a boat on Grand Street is being moved and is abandoned; the hazard needs to be removed.

Vice Mayor deHaan stated trailers are also an issue.

ADJOURNMENT

There being no further business, Mayor Johnson adjourned the Regular Meeting at 10:47 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

The agenda for this meeting was posted in accordance with the Brown Act.

MINUTES OF THE SPECIAL CITY COUNCIL MEETING
TUESDAY- -NOVEMBER 3, 2009- -6:00 P.M.

Mayor Johnson convened the Special Meeting at 6:50 p.m.

ROLL CALL - Present: Councilmembers deHaan, Gilmore,
Matarrese, Tam, and Mayor Johnson - 5.

Absent: None.

The Special Meeting was adjourned to Closed Session to consider:

(09-427) Conference with Legal Counsel - Anticipated Litigation
54956.9 (b); Number of cases: One.

(09-428) Conference with Labor Negotiators; Agency negotiators:
Karen Willis and Craig Jory; Employee organizations: All Bargaining
Units.

Following the Closed Session, the Special Meeting was reconvened
and Mayor Johnson announced that regarding Anticipated Litigation,
Council received a briefing from Legal Counsel on a matter of
anticipated litigation and provided direction to Legal Counsel;
regarding Labor, the matter was not heard.

Adjournment

There being no further business, Mayor Johnson adjourned the
Special Meeting at 7:30 p.m.

Respectfully submitted,

Lara Weisiger
City Clerk

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Act.

MINUTES OF THE SPECIAL JOINT CITY COUNCIL AND
COMMUNITY IMPROVEMENT COMMISSION (CIC) MEETING
TUESDAY- -NOVEMBER 3, 2009- -7:31 P.M.

Mayor/Chair Johnson convened the Joint Meeting at 10:48 p.m.

ROLL CALL - Present: Councilmembers/Commissioners deHaan,
Gilmore, Matarrese, Tam, and Mayor/Chair
Johnson - 5.

Absent: None.

MINUTES

(09-452 CC/09-48 CIC) Minutes of the Special Joint City Council, Alameda Reuse and Redevelopment Authority, and Community Improvement Commission Meeting held on October 20, 2009. Approved.

Vice Mayor/Commissioner deHaan moved approval of the Minutes.

Councilmember/Commissioner Matarrese seconded the motion, which carried by unanimous voice vote - 5.

AGENDA ITEMS

(09-453 CC) Recommendation to Approve an Amended and Restated Promissory Note in the amount of \$190,000 and an Amendment to the HOME Regulatory Agreement for 461 Haight Avenue Between the City and ALL Housing, Inc.; and

(09-49 CIC) Recommendation to Approve a Grant Agreement in the Amount of \$80,000 and an Affordable Housing Maintenance Covenant for 461 Haight Avenue Between the Community Improvement Commission and ALL Housing, Inc.

The Economic Development Director gave a brief presentation.

Councilmember/Commissioner Matarrese inquired whether the cash flow would go to a positive side so that the property would be maintained.

The Economic Development Director responded the positive cash flow is not extraordinary; stated there would still be a struggle but the cash flow would provide for maintenance and needed services.

Councilmember/Commissioner Matarrese moved approval of the staff recommendation with the condition that the property be maintained with the benefit from the payoff as well as the grant.

Special Joint Meeting
Alameda City Council and
Community Improvement Commission
November 3, 2009

Vice Mayor/Commissioner deHaan inquired whether staff has looked into the opportunity of purchasing the property for the Housing Authority.

The Economic Development Director responded that she is not sure whether the Housing Authority reviewed the matter; stated the operator is very responsible.

Vice Mayor/Commissioner deHaan stated oversight is needed to ensure that the property does not get into trouble again; funding could be better utilized from the Housing Authority.

Vice Mayor/Commissioner deHaan second the motion.

Under discussion, the Economic Development Director stated staff collaborated with the Housing Authority on what would be the best way to work on the project.

Mayor/Chair Johnson stated Resources for Community Development manages other projects in the City and does a very good job; concurred with Councilmember/Commissioner Matarrese's suggestion included in the motion.

Councilmember/Commissioner Tam commended staff for the creative restructuring; stated the project is the only resource the City has for the disabled.

On the call for the question, the motion carried by unanimous voice vote - 5.

(09-454 CC) Recommendation to Accept Public Streets Within Bayport Alameda, Approve a Lease for the Use of the Community Building and a Reciprocal Easement Agreement Per the Joint Use Agreement Between the Alameda Unified School District and the City, and Authorize the Interim City Manager to Execute and Authorize Execution of Documents for Completion of Bayport Alameda Project Obligations; and

(09-50 CIC) Recommendation to Approve Quit Claim Deeds Conveying the Public Streets and Bayport Park and Storm Treatment Pond Properties from the Community Improvement Commission to the City, Approve an Access and Maintenance Easement from the Community Improvement Commission to the City for Segments of the Storm Drain System, Adopt the Bayport Project Budget for Fiscal Year 2009-2010, and Authorize Execution of Documents for Completion of Bayport Alameda Project Obligations.

The Economic Development Director gave a brief presentation.

Vice Mayor/Commissioner deHaan inquired whether the CIC residential profit participation revenue is over and above the base price.

The Economic Development Director responded in the affirmative; stated the \$19.3 million pays for project obligations; stated all of the profit participation and land sale proceeds received from the project go back into the project to retire obligations; a \$7 million obligation for the developer advance still remains; profit participation expectations were higher two years ago.

Vice Mayor/Commissioner deHaan inquired whether State level problems and redevelopment fund take away will have any affect on the bond.

The Economic Development Director responded in the affirmative; stated the State's financial condition has hurt the bond market; stated redevelopment bonds have done much better than other types of bonds; today's bond market is much higher than a couple of years ago; nobody will allow the City to bond until how the City will make the State payment is determined; the City has the capacity to issue a bond much larger than recommended by staff; that she recommends not to bond to capacity because of State uncertainties.

Vice Mayor/Commissioner deHaan inquired whether staff would provide a complete bond overview, to which the Economic Development Director responded in the affirmative.

Councilmember/Commissioner Matarrese stated the City has the capacity on paper; estimates were raised as the project was built; using revenue streams to pay bonds back is subject to the State take away; the State's structural problems are not going to be remedied.

The Economic Development Director stated that she has had conversations with the Interim City Manager/Executive Director regarding consideration of strategies for just using tax increment generated off the project for the next year or so.

Mayor/Chair Johnson inquired what is the annual tax increment from the project.

The Economic Development Director responded over \$3 million; stated there is \$866,000 per year in existing debt service payoff of old bonds that anchor the project.

Vice Mayor/Commissioner deHaan stated the State take away is going to be a major concern.

The Economic development Director stated everyone is frustrated by the situation; rules seem to change or get developed along the way with respect to State payments; a lawsuit has been filed regarding the legitimacy of taking money; the lawsuit would be appealed if successful; the money will sit in a bank account or trust and not be put to productive use in the community.

Councilmember/Commissioner Matarrese moved approval of the staff recommendation.

Vice Mayor/Commissioner deHaan seconded the motion, which carried by unanimous voice vote - 5.

ADJOURNMENT

There being no further business Mayor/Chair Johnson adjourned the Joint Meeting at 11:11 p.m.

Respectfully submitted,

Lara Weisiger, City Clerk
Secretary, CIC

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